State Supreme Court ruling in Kent marijuana case agrees with Attorney General argument

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The Washington State Supreme Court last week agreed with a state Attorney General's Office friend of the court brief that local jurisdictions have the right to regulate or ban collective gardens.

The office filed the brief in Cannabis Action Coalition v. City of Kent, where a medical marijuana advocacy group challenged the city's ban on collective gardens.

On May 21, the high court ruled in agreement with the Attorney General's argument.

The plaintiffs argued that while the state medical marijuana law preserves local authority to regulate collective gardens, it does not allow for complete bans, and only applies to commercial activities. The court rejected these arguments.

The court did not consider whether federal law preempts state marijuana law, but the friend of the court brief argues that it does not.

"Washington voters decided nearly two decades ago to allow medical marijuana," Attorney General Bob Ferguson said in a media release. "I will continue to uphold the will of the voters."

The Attorney General's Office has made a similar argument regarding recreational marijuana, which was approved by voters in November 2012. In January 2014, the office offered a formal opinion that nothing in Initiative 502 prevents cities and counties from banning marijuana businesses. Kent also bans recreational marijuana businesses.

In each of five lawsuits regarding local bans of marijuana businesses, judges have agreed with the AGO opinion.

As in the recreational marijuana cases, if a court decides to consider the argument that federal law preempts Washington's medical marijuana law, it could jeopardize the state medical marijuana system.

Gov. Jay Inslee signed on April 24 the Cannabis Patient Protection Act, adding new regulations to medical marijuana producers, processors and retailers. The court’s ruling only considers the law as it existed before these updates.